

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
MIDLAND / ODESSA DIVISION**

UNITED STATES OF AMERICA

vs.

CRYSTAL MUNOZ

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CR. NO. MO-07-CR-119

Motion for New Trial (Rule 33)

ON THIS the 9th day of November, 2007, the Defendant, Crystal Munoz, makes a motion for new trial and for grounds would show the court as follows: the trial evidence presented was factually and legally insufficient to prove beyond a reasonable doubt that the defendant possessed with an intent to distribute a controlled substance.

There was virtually no evidence presented by the Government at the trial that the defendant actually possessed or constructively possessed any marijuana. The Government failed to demonstrate that the defendant had ownership, dominion, or control over any contraband. *United States v. Shabazz*, 993F 2d 431 (5th cir. 1993). The jury charge stated the Government must prove possession with intent to distribute a controlled substance beyond a reasonable doubt. The defendant believes the trial testimony and the evidence presented was factually and legally insufficient to support a verdict of guilty beyond a reasonable doubt.

Respectfully submitted,

DAN WADE
Attorney for Crystal Munoz

/s/Dan Wade

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Certificate of Service

By signing above, I hereby certify that on November 9, 2007, I filed this document with the Clerk using the CM/ECF filing system, which will cause a copy of the document to be delivered to Assistant United States Attorney, Mr. Jeff Parras.

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Order Granting Defendant's Motion for New Trial

On this the _____ day of November, 2007, came on to be heard the Defendant's Motion for New Trial after considering the evidence, the motion is hereby GRANTED.

SIGNED and ENTERED this _____ day of November 2007.

JUDGE PRESIDING